

Proposed by:	Public Safety Committee
First Reading:	02/03/2011
Second Reading:	02/17/2011
Vote: 5 Aye 0 Nay 1 Absent	

MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 11-03

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING CHAPTER 15.08, FIRE PREVENTION CODE AND ADDING SECTION 15.08.055, OPEN BURNING.

WHEREAS, Open burning creates a potential for increased fire hazard and fire spread when done improperly or during adverse weather conditions; and

WHEREAS, The Municipality of Skagway would like to ensure that open burning within its boundaries be done in a safe manner, so as to minimize the potential for fire extension or transmission; and

WHEREAS, The Municipality of Skagway has a long-established fire prevention program that requires the permitting of open burning within its boundaries; and

WHEREAS, The open burning permitting process has not yet been codified;

BE IT ORDAINED AND ENACTED BY THE MUNICIPALITY OF SKAGWAY, ALASKA AS FOLLOWS:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Skagway Municipal Code.

Section 2. Purpose. To amend Chapter 15.08 Fire Prevention Code to address open burning and associated penalties. The Skagway Municipal Code is hereby amended (~~strike through~~) indicates text to be deleted from, and **bold** indicates text added to the current code as follows:

Section 3. Amendment. Chapter 15.08 Fire Prevention Code is hereby amended as follows:

Chapter 15.08

FIRE PREVENTION CODE

Sections:

- 15.08.010 Fire Prevention Code adopted.
- 15.08.020 Enforcement.
- 15.08.025 Urbanized area
- 15.08.030 Prohibited materials storage.
- 15.08.040 Minimum fire protection requirements for buildings in the urbanized area.
- 15.08.050 Exemptions and modifications.
- 15.08.055 Open burning.**
- ~~15.08.060 Penalties for false alarms.~~

- 15.08.010 Fire Prevention Code adopted.
 - A. For the purpose of regulating conditions hazardous to life and property from fire or explosion, there is hereby adopted by reference, as the Fire Prevention Code of the municipality; the 2006 edition of that certain compilation of rules and regulations published by the International Conference of Building Officials known

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as the "International Fire Code," and which compilation is hereby made a part of this section as if fully set forth herein. One copy has been filed with the office of the borough permitting official; one copy has been filed in the office of the Fire Department; and one copy has been filed with the Skagway Public Library for public use, inspection and examination.

- B. The five (5) member board of appeals established by the International Fire Code shall consist of any five (5) persons currently serving as mayor or members of the borough assembly.

(Ord. 10-05, Amended, 05/20/2010; Ord. 08-05, Amended, 02/21/2008; Ord. 2002-02, Amended, 02/07/2002; Ord. 2000-06, Amended, 04/20/2000; Ord. 92-29, Amended, 11/19/1992; Ord. 89-13, Amended, 06/15/1989; Ord. 86-16, Amended, 03/06/1986; Ord. 84-20, Repealed & Replaced, 10/11/1984)

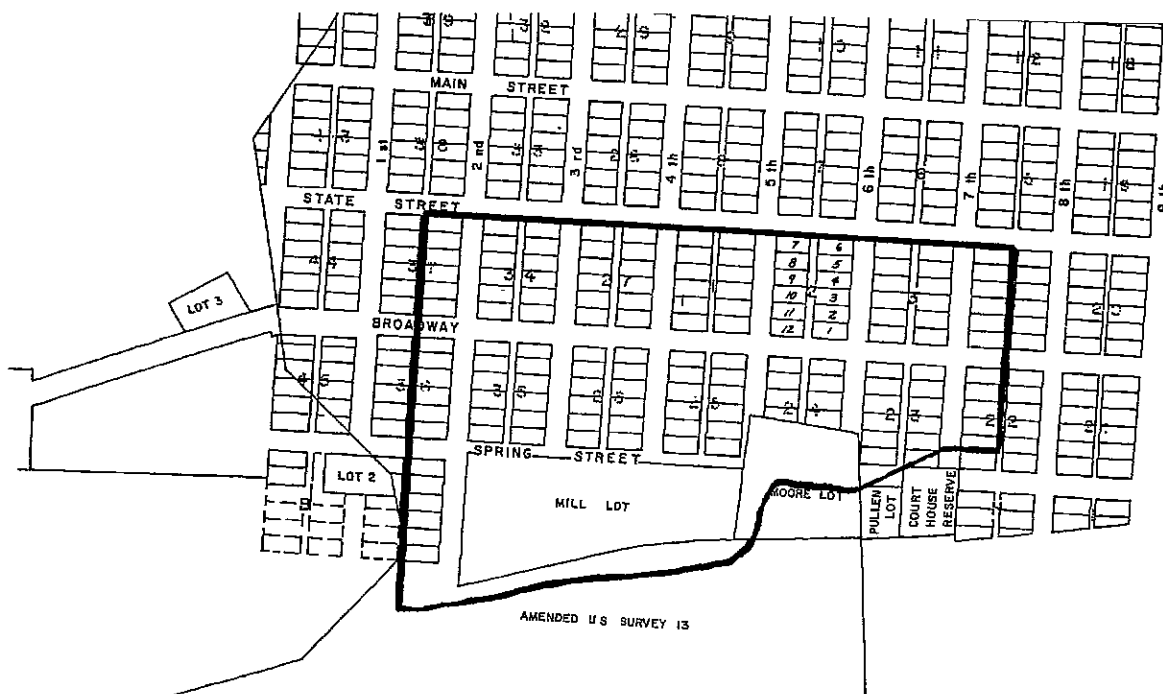
15.08.020 Enforcement.

The chief of the fire department (fire chief) shall be responsible, under the direction of the borough manager, for enforcement of the provisions of this chapter.

(Ord. 08-05, Amended, 02/21/2008; Ord. 84-20, Repealed & Replaced, 10/11/1984)

15.08.025 Urbanized area

- A. Urbanized Area Defined. "Urbanized area" means that geographic area of the municipality defined by the following boundaries:
 - Begin at a point at the intersection of the alley between 7th and 8th Avenues and the east side of State Street;
 - thence in a southerly direction to the alley located between First and Second Avenues and State Street;
 - thence easterly to Pullen Creek; then along Pullen Creek to the center of the alley between 7th and 8th Avenues; and
 - thence westerly to the point of beginning.



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(Ord. 08-05, Amended, 02/21/2008; Ord. 94-21, Renumbered, 10/20/1994; Ord. 84-20, Repealed & Replaced, 10/11/1984)

- 15.08.030 Prohibited materials storage.
- A. Prohibited Storage. Within the urbanized area, storage of the following materials is prohibited:
1. Explosives and blasting agents;
 2. Bulk storage of flammable liquids in outside above ground tanks; and
 3. Bulk storage of liquefied petroleum gas.

(Ord. 94-21, Amended, 10/20/1994; Ord. 84-20, Repealed & Replaced, 10/11/1984)

- 15.08.040 Minimum fire protection requirements for buildings in the urbanized area.
- A. The following minimum fire protection requirements are in addition to those provided in the International Fire Code and shall apply to buildings within the urbanized area, as defined in subsection A of Section 15.08.025.
1. All commercial and mixed occupancy buildings in excess of five hundred (500) square feet in total floor area in existence on January 1, 1991, shall have installed by January 1, 1992 an automatic alarm notification system connected to municipal dispatch center in accordance with the National Fire Protection Association standards 71, 72A and 72E (2006 Edition). Commercial and mixed occupancy buildings permitted for construction subsequent to January 1, 1991 shall have such systems installed prior to occupancy.
 2. Building owner(s) are responsible for the continued operation and maintenance of the fire protection system requirements as stated within these codes. Unauthorized disconnection and/or delinquent accounts which may include water, telephone and electric utilities will be charged a separate daily fee of one hundred dollars (\$100.00) until reconnected.
 3. Exemptions or modifications to the requirements of this section shall be allowed only by issuance of a written exemption or modification to the owner of those buildings which, as determined in writing by the building official, meet one of the following conditions:
 - a. Commercial and mixed occupancy buildings of less than five hundred (500) square feet in total floor area.
 - b. Buildings in which there is an automatic fire extinguishing system installed in conformance with NFPA Standard 13, provided the system is in operation year-round with the extinguishing system alarm connected to the fire department alarm panel.
 - c. Buildings that are unused, secure from unauthorized entry and with no electrical service from the electrical pole to the building.
 - d. "Unused" shall mean any building not serviced by utilities and protected from unauthorized entry for the previous twelve (12) months. Reconnection of the automatic alarm notification system to municipal dispatch center shall be charged for at the rate of three hundred dollars (\$300.00).
 - e. Buildings used as one (1) or two (2) family dwellings.
 - f. Private garages accessory to one (1) or two (2) family dwellings.
- B. Alarm notification systems may be temporarily disconnected only under the following conditions:

1. When the alarm system is undergoing maintenance.
 2. The fire department shall be notified prior to disconnection of an alarm system and upon restoration of alarm system functions.
- C. Continued use of commercial and mixed occupancy buildings in excess of five hundred (500) square feet of total floor area within the urbanized area without a fully operable electronic fire warning system in conformance with published standards shall be deemed a violation of this code section; and the building owner, upon conviction, shall be subject to the penalty provisions of this chapter. Each separate building may give rise to a separate violation, and each day during which a building remains in use without a fully conforming electronic fire warning system shall be a separate violation.
- D. Extinguishing Systems. Automatic fire-extinguishing systems shall be installed in accordance with National Fire Protection Association Standard Number 13 in all new construction in excess of five hundred (500) square feet in total floor area. For the purpose of this section, "new construction" shall include additions in excess of five hundred (500) square feet in total floor area to existing buildings. Such additions, if required to be protected by fire-extinguishing systems, shall not impose a requirement to install fire-extinguishing systems in the existing building. Fire-extinguishing systems shall not be required when an existing building is altered or repaired, unless such alteration results in an increase in total floor area in excess of five hundred (500) square feet.
- E. All commercial structures in the business historic district shall be protected by automatic fire-extinguishing systems in conformance with National Fire Protection Association Standard Number 13 before the end of fiscal year 2013.

(Ord. 10-05, Amended, 05/20/2010; Ord. 08-05, Amended, 02/21/2008; Ord. 2002-23, Amended, 11/21/2002; Ord. 2002-02, Amended, 02/07/2002; Ord. 96-22 (part), Amended, 09/19/1996; Ord. 93-6, Amended, 03/04/1993; Ord. 91-35, Amended, 11/21/1991; Ord. 91-20, Amended, 07/18/1991; Ord. 91-6, Amended, 03/21/1991; Ord. 91-3, Amended, 02/07/1991; Ord. 84-20, Repealed & Replaced, 10/11/1984)

15.08.050 Exemptions and modifications.

- A. The fire chief is authorized to grant temporary exemptions from or modifications to provisions of the International Fire Code in individual instances, provided the applicant shows (and the fire chief determines) that:
1. There are practical difficulties in complying with the strict letter of the Code; and
 2. If the specific exemption or modification is granted, there will nevertheless be substantial compliance with the Code, the public safety will be protected, and substantial justice done.
- B. When an exemption or modification is granted or denied, the fire chief's decision and his reasons shall be entered upon the department's records, and a signed copy furnished to the applicant. The fire chief's decision is subject to appeal to the borough assembly within thirty (30) days after issuance of the fire chief's decision.

(Ord. 10-05, Amended, 05/20/2010; Ord. 08-05, Amended, 02/21/2008; Ord. 2002-02, Amended, 02/07/2002; Ord. 84-20, Repealed & Replaced, 10/11/1984)

15.08.055 Open burning.

A. Definitions.

- 1. "Burn" is defined as causing, initiating and/or maintaining flaming combustion of solid or liquid fuels, whether in an enclosed incinerator, in a burn barrel or in an unenclosed pile.**
- 2. "Open burning" is defined as the burning of material which results in the products of combustion being emitted directly into the ambient air without passing through a stack or flue.**
- 3. "Burn permit" is defined as permission to burn, obtained from the fire department administrative office.**
- 4. "Municipal burn ban" is defined as a ban against burning in the Municipality due to dry or unsafe conditions; this ban can be implemented by the fire chief, fire marshal or designee. Such bans may be established Municipality wide or may be modified for specific open burning activities as fire conditions dictate.**
- 5. "Smolder" means to burn and smoke without flames.**
- 6. "Putrescible garbage" is described as material that can decompose and cause obnoxious odors.**

B. General requirements.

A person conducting open burning must insure that:

- 1. The material is kept as dry as possible through the use of a cover or dry storage;**
- 2. Before igniting the burn, noncombustibles are separated to the greatest extent practicable;**
- 3. Natural or induced draft is present;**
- 4. To the greatest extent practicable, combustibles are separated from grass or peat layer;**
- 5. Combustibles are not allowed to smolder or emit excessive smoke.**

C. Restrictions.

- 1. No person may engage in the open burning of any material except as authorized by a valid open burning permit. Open burning permits may be issued by the fire chief or the fire chief's designee upon application.**
- 2. It is unlawful to conduct open burning during a "municipal burn ban", unless the open burn activities are done in accordance with any modifications to the ban in effect.**
- 3. Open burning which creates a danger to public health or safety will not be allowed.**
- 4. Open burning activities must be limited to ordinary combustibles such as paper, wood debris, or natural fibers.**
- 5. No person may cause or allow the open burning of: Asphalt, rubber, plastic, tar, wire insulation, petroleum products, petroleum-based products, petroleum-treated products, automobile parts, treated lumber, oily waste, contaminated oil clean up material, putrescible garbage, animal carcasses or any other materials that may produce black smoke.**
- 6. It is unlawful to conduct the open burning of trash, waste, rubbish, refuse, slash, construction scraps, grass or weeds within the**

Municipality unless the person attending the burn complies with the rules set forth in the burn permit application and the following requirements:

- a. The attendant has obtained a Municipal burn permit;
- b. The attendant has notified the Police Department before the burn starts;
- c. The attendant must burn according to permit conditions;
- d. The attendant must observe all burning restrictions;
- e. The attendant is over the age of fourteen years old;
- f. The attendant watches the open burn until it ceases to flame;
- g. The attendant must be able bodied enough to endure the strenuous activities involved with trying to control the fire while suppression forces arrive in case of an emergency;
- h. The attendant must not be under the influence of alcohol or drugs;
- i. The attendant must be able to call for assistance in the event of a problem;
- j. The open burn is no closer than ten feet to any structure;
- k. The attendant prevents the spread of fire to any other structure or property;
- l. The attendant has a sufficient water supply to extinguish the open burn; or is equipped with a firefighting tool such as a shovel, heavy duty rake, wet gunny sack, hose.

D. Permit.

The permit, if issued, shall only be valid during the calendar year in which it was obtained; shall have a specified location and expiration date. The fire chief may refuse issuance to any applicant at any time.

E. Liability.

The Municipality, or the fire chief, shall be saved harmless and free from all liabilities, claims, demands, suits, judgments and actions of any nature whatsoever arising out of issuing the burning permit. The property owner will be liable for any damages resulting from the open burn.

F. Enforcement.

When complaints regarding open burning are received by the Police Department or the Fire Department, the Police Department will be sent out to investigate the complaint. If the Police Department finds the open burn to be in violation of the Municipal Code or burn permit, the Police Department will ask that the fire be extinguished or the Fire Department will be called to extinguish it. A citation may be issued to the violator in accordance with SMC 15.08.060 (A). The fire chief or his designee may, at their discretion, revoke the right to obtain a burn permit for up to one calendar year as a result of infractions or violations to this code.

G. Exceptions.

1. Open burning of structures is allowed for the purpose of firefighter training, provided that the fire department has acquired the requisite Alaska Department of Environmental Conservation approval and made all the proper notifications and modifications.
2. Special burn permits may be issued by the fire chief, fire marshal or designee.

- 15.08.060 Penalties for false alarms.
- A. False alarms as determined in writing by the fire chief or a designated representative, or violations of SMC 15.08.055 Open Burning shall be charged for as follows:
- | | |
|---|----------|
| First false alarm <u>offense</u> : | \$ 50.00 |
| Second false alarm <u>offense</u> : | 100.00 |
| Third and subsequent false alarms <u>offenses</u> : | 200.00 |
- B. Penalties may be imposed by the fire chief for malicious and/or repetitive alarm signals which are false due to negligence of the owner/operator or caused by the owner/operator or his tenants or employees. Identified false alarms shall be listed cumulatively by location during the calendar year. At the conclusion of the year incident logs shall be closed and a new list of false alarms shall be initiated as needed.

(Ord. 10/05, Amended, 05/20/2010; Ord. 93-5, Added, 03/04/1993)


Section 4. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 5. Effective Date. This ordinance shall become effective immediately upon adoption.

PASSED AND APPROVED by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 17th day of February, 2011.


Thomas D. Cochran, Mayor

ATTEST:


Emily A. Deach
Municipal Clerk

(SEAL)

